

**REPORT - PLANNING COMMISSION MEETING**  
**February 27, 2003**

**Project Name and Number:** Quizno's Subs (PLN2003-00156)

**Applicant:** Anthony Villamor

**Proposal:** To consider a Planned District Minor Amendment to P-98-10 to allow a Quizno's Subs to locate within an existing tenant space located at the 'Old School' site.

**Recommended Action:** Approve, based on findings and subject to conditions

**Location:** 43571 Mission Boulevard (primary address is 43551 Mission Boulevard – the 'Old School' site) in the Mission San Jose Planning Area.

**Assessor Parcel Number(s):** 513-0610-123-00

**Area:** Site Area: 1.72 acres; Tenant Space: 922 Square Feet

**Owner:** Santa Clara Development Co.

**Agent of Applicant:** N/A

**Consultant(s):** N/A

**Environmental Review:** This project is categorically exempt from CEQA review per Section 15301; Existing Facilities.

**Existing General Plan:** Community Commercial, Primary Historic Resource

**Existing Zoning:** P-98-10, Planned District

**Existing Land Use:** Existing miscellaneous commercial tenants, existing mixed-use live/work lofts, and the existing vacant tenant space.

**Public Hearing Notice:** Public hearing notification is applicable. A total of 108 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on February 14, 2003. A Public Hearing Notice was delivered to The Argus on February 12, 2003 to be published by February 22, 2003.

**Background and Previous Actions:** P-98-10, the mixed use, commercial, and residential planned district zoning for the site and which also approved specific floor plans and architecture, was approved on October 13, 1998.

**Project Description:** The applicant is proposing to locate a Quizno's Subs sandwich shop within a currently vacant 922 square foot tenant space at the existing Old School development project. The proposed restaurant would serve both eat in and to go customers, and would join the existing Starbucks, Mail Boxes Etc., and Nina's Fine Dining uses in the tenant spaces along Mission Boulevard. The proposed Quizno's is located within a tenant space oriented to both Mission Boulevard and the interior courtyard, and the applicant is proposing both interior and exterior seating for patrons. Hours of operation for the proposed restaurant are from 11 a.m. to 9 p.m. Monday through Saturday and 11 a.m. to 8 p.m. Sunday. The applicant is proposing to use opaque glass along the Mission Boulevard elevation (one window bay) in order to provide adequate room for storage and employee space.

**Project Analysis:**

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Community Commercial, Primary Historic Resource. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

*Policy LU 2.11: Eating and drinking establishments... are allowed. Fast food type restaurants are allowed to the degree they can be incorporated into the character of a pedestrian oriented commercial center.*

The proposed Quizno's restaurant conforms to the above policy as an eating establishment in a Community Commercial area. Although technically fitting the definition of "Fast Food" (see discussion under Zoning Regulations), the project is oriented to pedestrian traffic along Mission Boulevard in this area. A large portion of Quizno's sales are likely to be generated by students and/or faculty of nearby Ohlone College, which is within walking distance of the project site.

- **Zoning Regulations:** The project site is zoned P-98-10, and condition of approval E-1 of the planned district states:

*Uses in the new commercial space shall be those allowed under the C-C, Community Commercial District except that eating and drinking places shall be limited to a total of 4,200 square feet, net of storage space, and fast food uses (as defined in Sec. 8-2142.8 of the Fremont Municipal Code) shall require Planning Commission approval through an amendment to the Planned District. Zoning Administrator uses and Conditional Uses in the C-C Community Commercial district may be allowed subject to the approval of Planned District Minor Amendments, approved at the Director level and Planning Commission level, respectively.*

Eating places not serving alcohol or open past midnight (as with Quizno's) are typically a permitted use in Community Commercial zoning districts per Section 8-21101 of the FMC. However, the Planned District zoning specifically requires that any eating place which fits the following definition for fast food (Section 8-2142.8) be reviewed by the Planning Commission:

*"Fast-food restaurant" shall mean any retail establishment intended primarily to provide food service for off-site dining (with limited or no table service) and/or take-out food service, including self-service restaurants (excluding cafeterias where food is consumed on the premises), and franchise restaurants required by contract or other arrangement to offer standardized menus ingredients, and fast-food preparation.*

The proposed Quizno's restaurant does meet this definition, and thus requires a Planned District Minor Amendment. Signage for the project will also be required to comply with the site's Planned Sign Program (condition number 7), which will further ensure compatibility.

Condition of approval E-1 of P-98-10 also limits eating places "to a total of 4,200 square feet, net of storage space", which is based on available parking for the site as approved under P-98-10. Nina's Fine Dining, another restaurant located in this development, is under construction for interior improvements and will have a net area of 3,536 square feet. The proposed Quizno's will have a net area of 614.5 square feet, which brings the project total eating place square footage for the Old School site to 4150.5 square feet (Starbucks is classified as a retail food store for parking purposes in this and other zoning districts, and is therefore not counted against this requirement). While the proposed Quizno's is compatible with the zoning and project site, it should be noted that based on available parking (78 spaces plus 26 overflow space at the adjacent Bank of America site per a parking agreement, not including on street parking) and the conditions of approval of P-98-10, no further restaurant uses will be allowed at this site.

## **Design Analysis:**

- **Architecture:** The applicant is proposing to apply an opaque film or otherwise 'black out' the window bay facing Mission Boulevard. Staff initially asked that the project be redesigned to maintain the existing transparent glass, however, after meeting with the applicant and property owner determined that any such requirement would preclude the proposed project. There is not enough space within the 922 square foot area to allow any type of viable redesign

to allow all windows to remain transparent. Staff, the applicant, and the property owner reviewed the following potential options:

1. Maintain the transparent glass, with a view into the food preparation or dining area only.

As discussed, the applicant and property owner indicated that a redesign to allow the window a view into the food preparation or dining area would not be possible given the size constraints of the tenant space at 922 square feet. After reviewing numerous potential floor plan changes, staff does not believe that accomplishing this goal will be possible while still providing an adequate floor plan layout for this tenant.

2. Maintain the transparent glass, with a view into the storage/employee room.

It would be possible to slightly relocate/redesign the proposed walk in cooler to allow the window fronting Mission Boulevard an unobstructed view into the "back room", which will primarily contain storage and employee break facilities. Staff does not believe that such a view would be appropriate or attractive, however, due to the nature of the use of the back room.

3. Provide a 12 to 18 inch deep display window fronting Mission Boulevard.

Although this would be a viable option for many retailers, staff does not believe that it would be appropriate for a Quizno's restaurant, as it could potentially lead to the placement of signs and products which might not be compatible with the overall design of the Old School project, more so because it is a Primary Historic Resource of the City which is particularly sensitive to details such as storefront and sign design.

In meeting with the applicant and the property owner to discuss the above options, both verbally indicated that either option 2 or 3 could be incorporated with the project design. However, as identified above, staff does not believe that either of these options would be appropriate to this site. Given the fact that the existing glass is already tinted and often difficult to see into from Mission Boulevard, staff believes that blacking out the window is the best option (condition number 8).

No other architectural changes are proposed as part of this project. Staff has included conditions of approval to ensure that future signage complies with the adopted Planned Sign Program (condition number 7) and that any exterior site furniture, temporary or permanent, be of an appropriate design for the Old School site (condition number 4). Specifically, furniture should be metal, decorative style, and a dark color compatible with the design and color scheme of the Old School site.

#### **Applicable Fees:**

- **Development Impact Fees:** Development Impact Fees were already paid at the retail rate when the Old School development was initially constructed (under P-98-10), and thus no new impact fees will be applicable.

**Environmental Analysis:** This project is categorically exempt from CEQA review per Section 15301; Existing Facilities.

**Response from Agencies and Organizations:** Staff did receive a letter from a nearby business owner, who was concerned that there was not adequate demand to justify locating more retail food service facilities in this area. He also indicated concerns over parking supply, compatibility with the neighborhood, etc. A copy of the letter is enclosed with this report for Planning Commission review.

**Enclosures:**

Exhibit "A"	Site Plan and Floor Plans
Exhibit "B"	Conditions of Approval
	Public Comment Letter(s) (Informational)

**Exhibits:**

Exhibit "A"	Site Plans and Floor Plans
Exhibit "B"	Conditions of Approval

**Recommended Actions:**

1. Hold public hearing.
2. Find PLN2003-00156 is categorically exempt from CEQA review per Section 15301; Existing Facilities, because it is a new tenant in an existing commercial development and could not have any additional environmental impacts.
3. Find PLN2003-00156 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Approve PLN2003-00156, as shown on Exhibit "A", subject to the findings and conditions on Exhibit "B".

**Exhibit "B"**  
**Findings and Conditions of Approval for PLN2003-00156**  
**Quizno's Subs – Planned District Minor Amendment**  
**43571 Mission Boulevard**

**FINDINGS:**

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated February 27, 2003, incorporated herein:

- (a) The proposed use is consistent with the General Plan of the City of Fremont because eating places are a permitted use within the Community Commercial General Plan designation of the site.
- (b) The site is suitable and adequate for the proposed use because it is zoned for such a use and is large enough to accommodate the proposed use. There is adequate parking available, and the use will be located within an already built tenant space.
- (c) The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the use will be locating within an already existing tenant space which has been designed to address and respond to any such potential impacts, and the use will draw from the pedestrian circulation along Mission Boulevard.
- (d) The proposed use would not have a substantial adverse economic effect on nearby uses because the project site was initially designed to be compatible with a restaurant use, which will help bolster and diversify surrounding uses.
- (e) The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because the use will be locating within an existing tenant space already designed for such a business.

**CONDITIONS OF APPROVAL:**

- 1. The project shall conform to Exhibit "A" (Site Plan and Floor Plans), except as modified herein.
- 2. If the Assistant City Manager finds evidence that conditions of approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Assistant City Manager may refer the use permit to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Commission may modify or revoke the use permit.
- 3. Plans shall be submitted to the City's Development Services Center for review and approval prior to Building Permit issuance.
- 4. Permanent and/or temporary exterior furniture selection and placement shall be subject to the review and approval of Planning staff. Furniture shall be of a durable and decorative nature, metal, and a dark color appropriate to the architecture of the Old School site.
- 5. Hours of operation shall be limited to 11 a.m. to 9 p.m. Monday through Saturday and 11 a.m. to 8 p.m. Sunday. Any request to extend the proposed hours of operation must be submitted in writing and will be considered by the Assistant City Manager. The Assistant City Manager may, at his/her discretion, refer such requests to the Planning Commission for review.
- 6. No alcohol sales or service is permitted as part of this permit. Any future request to sell or serve alcohol shall be subject to the provisions of P-98-10 and the Fremont Municipal Code.

7. Any signage for the proposed restaurant shall conform to the requirements of the applicable Planned Sign Program for the site. This Planned District Minor Amendment does not approve specific signage for the project.
8. Any proposal to 'black out' or otherwise cover the windows at this tenant space shall be subject to Planning review and approval. Only those windows identified on Exhibit "A" may be covered. Rather than apply a film or otherwise tint the windows, the applicant shall install spandrel glass to match the upper portion of the blacked out windows and other windows on site.
9. Exterior construction activities shall be limited to the following hours of operation:
  - 7 a.m. to 7 p.m. Monday through Friday
  - 9 a.m. to 6 p.m. Saturday
  - No Construction on Sunday

Failure to comply with the above construction hours may lead to the withholding of inspections.

